(36)

HIGH COURT OF JUDICATURE CHHATTISGARH : BILASPUR

SINGLE BENCH : Hon'ble Shri S.R. Nayak, C.J.

W.P. No.1619 OF 2006

PETITIONER		Mohan Lalwani, aged about 48 years, son of Late Shri Chandiram Lalwani, resident of in front of Jaiswani Saw Mill, Sihawa Road, Dhamtari (C.G.)
	Versus	
RESPONDENTS	1.	The State of Chhattisgarh, Through the District Collector, Distt. Dhamtari (C.G.)
	2.	The Secretary, Department of Public & Works, Dau Kalyan Singh Bhawan, Mantralay, Raipur (C.G.)
	3.	The Sub Divisional Officer, Public Works Department Sub Division Dhamtari, Distt. Dhamtari (C.G.)
	4.	The Tahsildar, Dhamtari, Distt. Dhamtari (Chhattisgarh)
	5.	The Nagar Palik Parishad Dhamtari, through - the Chief Executive Officer, Dhamtari (C.G.)

Present : Shri V.R. Tiwari, learned counsel for the petitioner.
Shri Yashwant Singh, learned Govt. Advocate for the State.

ORAL ORDER
(Passed on 4th April, 2006)

This writ petition is directed against the notice marked as Annexure P/1 produced at page 10 of the material papers dated 08-03-2006, issued by the Sub Divisional Officer, Public Works Department, Sub Division Dhamtari, District Dhamtari, the third respondent herein, alleging that the petitioner has encroached a space ad-measuring 10 feet x 93 feet (930 square feet) belonging to the Public Works Department which forms part of a public road and directing the petitioner to remove the illegal construction made by him in the said plot of land while administering a threat that if he fails to do so, the authorities would take appropriate steps to remove/demolish the illegal construction. The petitioner, it is true, has

37

denied the assertion made in the impugned notice by the third respondent. According to the petitioner, he purchased the subject plot of land under a Registered sale deed dated 16-04-1986 and since then, he has been in lawful possession of the said plot as its absolute owner.

(2) Having regard to the pleading of the petitioner and what is stated by the third respondent in the impugned notice, what arises for decision-making is a factual controversy. That controversy cannot be resolved in a summary proceeding under Article 226 of the Constitution of India. The dispute brought before the Court relates to title of the subject plot, whether it is the property of the Public Works Department or property of the petitioner as claimed by him. Such a dispute can be resolved only by way of a competent Civil Court. However, it was appealed to the Court by learned counsel for the petitioner that there is imminent danger of demolishing the construction made by him in the subject plot of land and, therefore, the respondent-authorities be prevented from resorting to demolition for a reasonable time so that the petitioner could workout his legal remedies before the jurisdictional Civil Court.

(3) Having heard learned counsel for the parties, I dispose of the writ petition directing the petitioner and the respondents to maintain status-quo that obtains as on today with regard to the subject plot of land for a period of five weeks from today. All the contentions raised by the parties in the impugned notice and in the pleadings of the petitioner are left open to be agitated before the jurisdictional Civil Court, in the event of the petitioner instituting a suit for legal remedy. In the facts and circumstances of the case, the parties shall bear their respective costs.

(4) Certified copy as per rules.

Sd/-
Chief Justice

Brajesh